

## **REMARKS**

### **[01] AMENDMENTS TO THE CLAIMS**

[02] Minor editorial changes have been made to the claims. Most of these changes involve the deletion of commas after “wherein”. None of these were in response to the outstanding rejections and none introduce new matter.

### **[03] ANTICIPATION BY BRYANT+LUO**

[04] Item 1 of the Office Action of 2008-Oct-08 rejects Claims 1-3, 8-9, 15-17, and 21 under 35 USC 102(e) “as being anticipated by” U.S. Patent Publication 2005/0078656 to Bryant et al., “Bryant” herein, in view of U.S. Patent 6,377,551 to Luo et al., “Luo” herein. These rejections are traversed.

### **[05] Combination of References Cannot Anticipate**

[06] For a claim to be anticipated, the claimed elements must be found in the claimed combination in the prior art. This condition is unlikely to be met if references must be combined to find teachings for all claim limitations. Accordingly, the rejections for anticipation should be withdrawn. Hereinbelow, these rejections are treated as obviousness rejections.

[07] All claims require recalculation using a directed cost protocol. The Office Action recognizes that Bryant does not disclose this limitation, but asserts that Luo does. However, Luo does not disclose recalculation using a “directed cost protocol”. The Office Action refers to Luo, Fig. 3, step 44, but Fig. 3, step 44 simply refers to a re-evaluation stage, with no mention of “directed cost protocol”. The Office Action cites Luo, Fig. 17, which makes no mention of a directed cost protocol.

The Office Action cites Luo, column 8, lines 64-67, which passage refers to “directed graphs”, but not to a “directed cost protocol”.

[08] The Office Action attempts to equate “directed graph” to “directed cost”, but the meanings of “graph” and “cost” are unrelated. In any event, the comparison should be between “graph” and “cost protocol”, not between “graph” and “cost”. **Since the Office Action has failed to establish that the prior art teaches the claimed “directed cost protocol”, the rejections (whether for anticipation or obviousness) based on Bryant and Luo should be withdrawn.**

[09] **OBVIOUSNESS OVER BRYANT+LUO+KELSEY**

[10] Item 2 of the Office Action rejects Claims 4-6 and 18-19 as being obvious in view of Bryant in view of Luo and further in view of U.S. Patent Publication 2005/0249215 to Kelsey et al., “Kelsey” herein. These rejections are traversed.

[11] **No “Directed Cost Protocol”**

[12] Claims 4-6 and 18-19, like the claims from which they depend, require recalculation using a “directed cost protocol”. The rejections of these claims do not assert that this limitation is taught by Kelsey. Instead, the Office Action appears to rely on Luo’s disclosure of a “directed graph” for a teaching of a “directed cost protocol”. However, a graph is not a cost protocol. **Since the Office Action fails to establish that the proposed combination of references teaches the claim limitation of a directed cost protocol, the rejections of Claims 4-6 and 18-19 should be withdrawn.**

**[13] Intermediate Switches Adding Cost Information**

[14] Claim 4 requires that intermediate switches along the specific path each add cost information to a cost packet. The Office Action recognizes that Bryant and Luo do not disclose this limitation, but points out that Kelsey does disclose this limitation at Kelsey, paragraph 52. The Office Action further relies on Kelsey for a motivation to modify the combination of Bryant and Luo to meet the Claim 4 limitation. However, Kelsey does not provide the requisite motivation for combining references.

[15] The Office Action states that the motivation for modifying the proposed combination of Bryant and Luo is “a more efficient routing”. However, Kelsey, paragraph 52 discloses that “the accrued cost is not actually used for routing decisions”. Thus, one skilled in the art would not be motivated to modify the proposed combination of Bryant and Luo in accordance with the teachings of Kelsey. **Since the Office Action has failed to establish a motivation for modifying the proposed combination of Bryant and Luo in accordance with the teachings of Kelsey, the rejections of Claim 4 (and Claims 5 and 6 depending therefrom) should be withdrawn.**

**[16] Piggybacking**

[17] Claims 6 and 19 require “piggybacking information for more than one path into the cost packet”. The Office Action relies on Kelsey, Fig. 2 and paragraph 101 for this limitation. However, no reference to piggybacking (by that name or any other) can be found in Kelsey. **Since the Examiner has failed to establish the Kelsey or any of the other references cited disclose the claimed piggybacking, the rejection of Claims 6 and 19 should be withdrawn.**

**[18] OBVIOUSNESS OVER BRYANT+LUO+ERHART**

[19] Item 3 of the Office Action rejects Claims 7 and 10-11 as being obvious in view of Bryant in view of Luo and further in view of U.S. Patent Publication 2005/0068941 to Erhart, "Erhart" herein. These rejections are traversed.

**[20] No "Directed Cost Protocol"**

[21] Claims 7 and 10-11, like the claims from which they depend, require recalculation using a "directed cost protocol". The rejections of these claims do not assert that this limitation is taught by Erhart. Instead, the Office Action appears to rely on Luo's disclosure of a "directed graph" for a teaching of a "directed cost protocol". However, a graph is not a cost protocol. **Since the Office Action fails to establish that the proposed combination of references teaches the claim limitation of a directed cost protocol, the rejections of Claims 7 and 10-11 should be withdrawn.**

**[22] Path Tags**

[23] Claims 7 and 10-11 require path tags that identify paths between mesh switches. The Office Action recognizes that this limitation is not disclosed by Bryant or Luo, but asserts that the limitation is disclosed at Erhart, paragraph 10. However, this limitation is not disclosed by Erhart.

[24] Erhart, paragraph 10 discloses "multiprotocol label switching networks", and the Office Action appears to equate "label" with the claimed "path tags". While the association of "label" and "tag" may be justified, there is no basis for assuming Erhart's labels identify paths between mesh switches. Rather, the plain meaning of Erhart would be that the labels identify protocols, rather than paths. In any event, the Office Action has failed to establish that Erhart discloses the required

path tags. **Since the Office Action has failed to establish that Erhart discloses the required path tags, the rejections of Claims 7 and 10-11 should be withdrawn.**

**[25] OBVIOUSNESS OVER BRYANT+LUO+ERHART+KELSEY**

[26] Item 4 of the Office Action rejects Claims 12-14 as being obvious in view of Bryant, Luo, Erhart, and Kelsey. These rejections are traversed.

**[27] No “Directed Cost Protocol”**

[28] Claims 12-14, like the claims from which they depend, require recalculation using a “directed cost protocol”. The Office Action appears to be relying on Luo’s disclosure of a “directed graph” for a teaching of a “directed cost protocol”. However, a graph is not a cost protocol. **Since the Office Action fails to establish that the proposed combination of references teaches the claim limitation of a directed cost protocol, the rejections of Claims 12-14 should be withdrawn.**

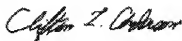
**[29] Other Limitations**

[30] With respect to Claim 13, see the subsection above entitled “Intermediate Switches Adding Cost Information”. With respect to Claim 14, see the subsection above entitled “piggybacking”.

[31] CONCLUSION

[32] All claims required a *directed cost protocol* and none of the cited references disclose a directed cost protocol. For this and the other reasons presented above, the claims are allowable over the art of record. Accordingly, it is respectfully submitted that all claims are allowable and allowance of the application in its present form is respectfully requested.

Respectfully submitted

A handwritten signature in cursive script, appearing to read "Clifton L. Anderson".

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